

**REMARKS**

Claims 1-24 are pending. Claims 1-24 are rejected. No new subject matter has been added. Claims 1-24 remain pending. Reconsideration of the claims is requested in light of the following remarks.

***Claim Rejections - 35 USC § 102***

Claims 1-3, 9-11, and 15-17 are rejected under 35 USC 102(e) as being anticipated by Schuster et al. (US 6,360,271). The rejection is respectfully traversed.

Claim 1 recites:

A *server* for transmitting data over a network to a client having a de-jitter buffer, the server comprising:  
a regular path for transmitting data received from a source at a regular rate;  
a burst path for transmitting data received from the source at a burst rate higher than the regular rate;  
an initial burst transmit buffer in the burst path for buffering data from the source, and for transmitting the buffered data to the client at the burst rate;  
and  
a switch for selecting to transmit data from one of the regular path and the initial burst path.

Schuster involves a system for dynamic jitter buffer management based on synchronized clocks. Claim 1 involves a *server* comprising a regular path, a burst path, an initial burst transmit buffer and a switch for selecting one of the paths. The recited sections of Schuster all involve multiple paths across a *network*. A network is not a server, wherein all of the functions are performed by one device. It is therefore submitted that claim 1 is patentably distinguishable over the prior art. Claims 2 and 3 depend from claim 1 and should be ruled allowable for that reason and for their own merits. It is submitted that claims 2 and 3 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claim 9 recites similar limitations, that is, different paths "to the network" and therefore within the server. Schuster involves multiple paths *across* the network. A network is not a server. It is therefore submitted that claim 9 is patentably distinguishable over the prior art. Claims 10 and 11 depend from claim 9 and should be ruled allowable for that reason and for their own merits. It is submitted that claims 10 and 11 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claim 15 recites similar limitations to claims 1 and 9, that is, "a first path of the server" and a "second path of the server". A network is not a server. It is therefore submitted

that claim 15 is patentably distinguishable over the prior art. Claims 16 and 17 depend from claim 15 and should be ruled allowable for that reason and for their own merits. It is submitted that claims 16 and 17 are patentably distinguishable over the prior art and allowance of these claims is requested.

***Claim Rejections - 35 USC § 103***

**Schuster in view of Ketcham: Claims 4, 12, 18, and 21-24**

Claims 4, 12, 18, and 21-24 are rejected under 35 USC 103(a) as being unpatentable over Schuster et al. in view of Ketcham.

Regarding claims 4, 12 and 18, Ketcham does not cure the deficiencies of Schuster. Namely, Ketcham discloses software and methods for improving communications between two or more terminal locations of a network. Ketcham does not teach a burst path and a regular path *in a switch* as claimed in claims 4, 12 and 18. It is therefore submitted that claims 4, 12 and 18 are patentably distinguishable over the prior art.

Claims 21-24 specify storing data in a de-jitter buffer and initiating play out of the stored data from the de-jitter buffer when the de-jitter buffer reaches a fill level and then changing the fill level while playing out the stored data.

Nowhere does Schuster or Ketcham suggest the limitations specified in claims 21-24. Ketcham only discusses altering a jitter time estimation by measuring a packet arrival time to a jitter time. Col. 8, lines 49- col. 10, line 9. There is no suggestion of changing a de-jitter fill level after a first fill/play-out level is reached.

It is therefore submitted that claims 21-24 are patentably distinguishable over the prior art.

**Schuster in view of Ketcham in further view of Vetro: Claims 5-6, 13-14, and 19-20**

Claims 5-6, 13-14, and 19-20 are rejected under 35 USC 103(a) as being unpatentable over Schuster et al. in view of Ketcham and further in view of Vetro et al. Vetro does not cure the deficiencies of Schuster in view of Ketcham. Namely, Vetro discloses an adaptable compressed bitstream transcoder. Vetro does not teach a burst path and a regular path *in a switch* as claimed in claims 5-6, 13-14 and 19-20. It is therefore submitted that claims 5-6, 13-14 and 19-20 are patentably distinguishable over the prior art.

Schuster in view Chou: Claims 7-8

Claims 7-8 are rejected under 35 USC 103(a) as being unpatentable over Schuster et al. in view of Chou.

Claim 7 recites:

a receiving de-jitter buffer for receiving and playing out the streaming media,

wherein the receiving de-jitter buffer has a changing fill level having a first threshold that initiates playout of the streaming media and that changes while playing out the streaming media to a second higher threshold.

Applicants agree with Examiner that Schuster does not disclose the section from claim 7 immediately above.

Chou involves a server providing two data streams with a first data stream having fewer bits per frame but does not disclose a receiving de-jitter buffer with a changing fill level with multiple thresholds, a first threshold to initiate playout of streaming media and that changes to a second higher threshold while playing out the streaming media. Furthermore, the argument advanced by Examiner that "constraining the transmission bit rate of the packets in order to minimize the start-up and seek delays for streaming media allowing a user to receive and play media without any delays" would be an obvious modification to one of ordinary skill in the art, even if it were true, does not disclose every limitation in claim 7. It is therefore submitted that claim 7 is patentably distinguishable over the prior art. Claim 8 depends from claim 7 and should be ruled allowable for that reason and for its own merits. It is submitted that claim 8 is patentably distinguishable over the prior art and allowance of this claim is requested.

**CONCLUSION**

For the foregoing reasons, reconsideration and allowance of claims 1-24 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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